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June 25, 2002

**VIA HAND DELIVERY**

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423-0001



**Re: Union Pacific Railroad Company – Abandonment – Whittier Junction  
– Colima Junction Line in Los Angeles County, California AB- 33  
(Sub-No. 93X)**

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of a **Request To Vacate (in part) a Notice of Interim Trail Use ("NITU")**, pursuant to 49 C.F.R. § 1152.29.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance.

Respectfully submitted,

A handwritten signature in cursive script that reads "Tracie D. Spear".

Tracie D. Spear

Enclosures

**ENTERED  
Office of Proceedings**

**JUN 26 2002**

**Part of  
Public Record**



# City of Whittier

13230 Penn Street, Whittier, California 90602-1772  
(562) 464-3301

David O. Butler  
Mayor

Owen Newcomer  
Mayor Pro Tem

Bob L. Henderson  
Council Member

Greg Nordbak  
Council Member

Allan Zolnekoff  
Council Member

Stephen W. Helvey  
City Manager

June 13, 2002

## VIA HAND DELIVERY

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423-0001

Dear Secretary Williams:

**Re: STB Docket No. AB-33 (Sub-No. 93X)  
Union Pacific Railroad Company – Abandonment  
Exemption – In Whittier Junction-Colima Junction Line in  
Los Angeles County, CA**

This letter is filed on behalf of the City of Whittier, California (hereinafter referred to as the "City"), which would like to vacate, in part, the Notice of Interim Trail Use ("NITU") served in Docket No. AB-33 (Sub-No. 93X) on December 14, 2001. The City would like to terminate interim trail use/rail banking on a portion of the right-of-way subject to the NITU.

By notice of exemption served and published in the Federal Register on August 12, 1996, the Surface Transportation Board ("STB") granted Union Pacific Railroad Company ("UP") authority to abandon approximately 5.18 miles of its Whittier Junction-Colima Junction line (portion of the Anaheim Branch) between approximately MP 0.0 near Whittier Junction and approximately MP 5.18 near



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Colima Junction in Los Angeles County, California. The exemption became effective on September 11, 1996.

On November 30, 2001, the City late-filed a request for issuance of a NITU for a portion of the right-of-way between approximately milepost 0.43 near the grade crossing at Pioneer Boulevard and milepost 5.11 near Colima Junction (hereinafter referred to as the "Subject Line"), a distance of approximately 4.68 miles. By decision served December 14, 2001, the STB modified the notice exempting UP's abandonment of the Subject Line to the extent necessary to implement interim trail use by the City.

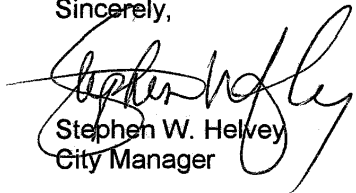
In connection with a transaction involving a sale of real property, the City has decided to terminate interim trail use over a portion of the Subject Line. The transaction will involve the sale of only a small parcel and will not disrupt the continuity of the Subject Line. The City plans to terminate interim trail use over a 15,000 sq. ft.-parcel located on the eastern boundary of the Subject Line between approximately MP 2.70 near Mar Vista Street and approximately MP 2.78 near Pickering Avenue.

Therefore, the City respectfully requests that the STB vacate the NITU, to the extent necessary to terminate interim trail use over the 15,000 sq. ft.-parcel located on the eastern boundary of the Subject Line between approximately MP 2.70 near Mar Vista Street and approximately MP 2.78 near Pickering Avenue, effective July 23, 2002, provided that the transaction referenced above closes on such date. In the event that the transaction does not close on July 23, 2002, the City will promptly advise the STB and amend this request to reflect the new effective date. The NITU will remain effective for, and the City will continue interim trail use over, the remaining portion of the Subject

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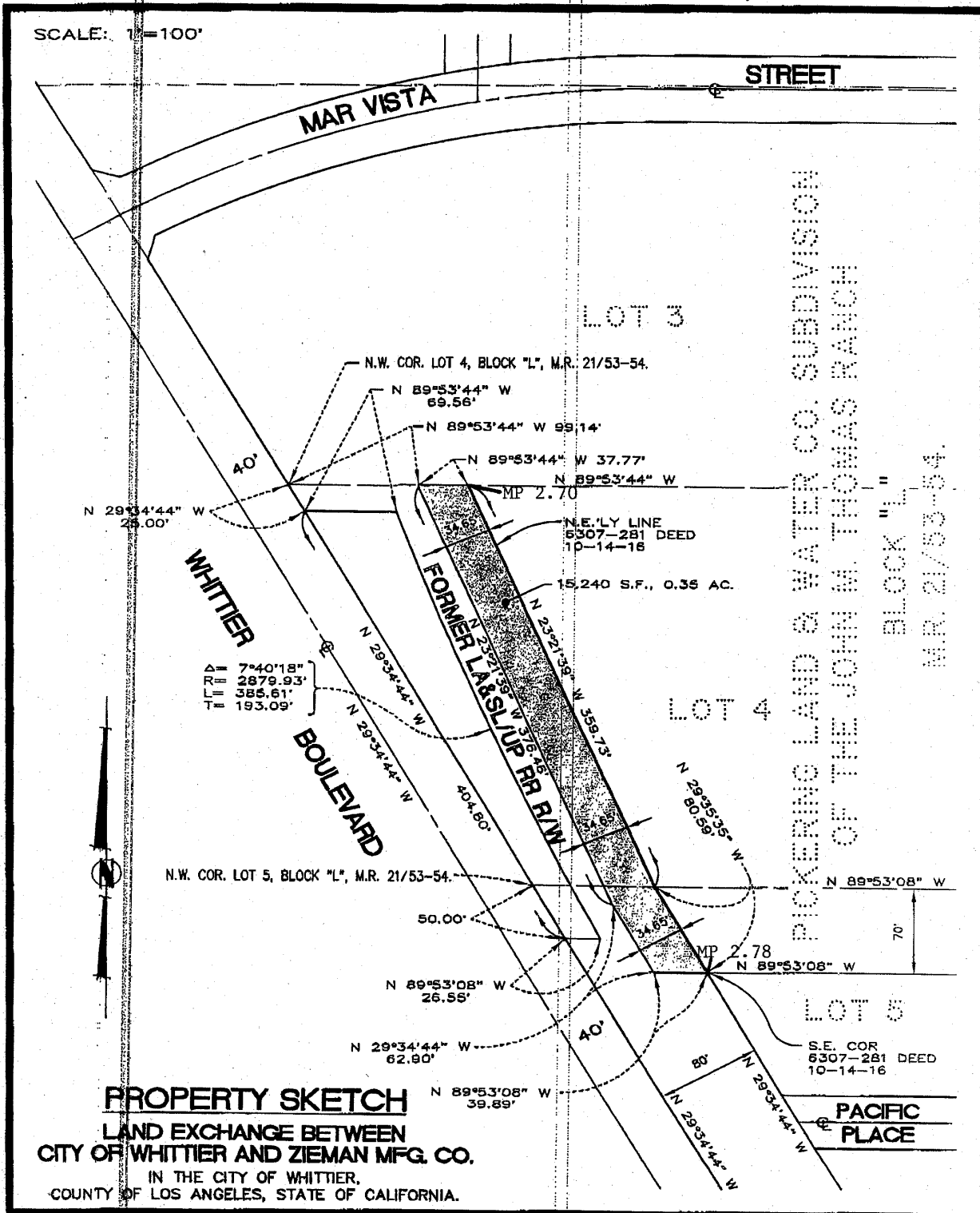
Line. A copy of the STB's Decision and Notice of Interim Trail Use or Abandonment in  
Docket No. AB-33 (Sub-No. 93X) dated December 14, 2002 is attached hereto.

Sincerely,



Stephen W. Helvey  
City Manager

Enclosures



\*\*shaded area = vacate NITU

32360  
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SERVICE DATE - DECEMBER 14, 2001

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-33 (Sub-No. 93X)<sup>1</sup>

UNION PACIFIC RAILROAD COMPANY-ABANDONMENT  
EXEMPTION-IN WHITTIER JUNCTION-COLIMA JUNCTION LINE  
IN LOS ANGELES COUNTY, CA

Decided: December 12, 2001

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152.50 to abandon approximately 5.18 miles of the Whittier Junction-Colima Junction line (portion of the Anaheim Branch) from milepost 0.0 near Whittier Junction to milepost 5.18 near Colima Junction, in Los Angeles County, CA. Notice of the exemption was served and published in the Federal Register on August 12, 1996 (61 FR 41823). On December 13, 1996, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the City of Whittier (City) to negotiate an interim trail use/rail banking agreement with UP for the 5.18-mile line of railroad. The negotiation period under the NITU was extended several times at the request of UP and expired on December 31, 2000.<sup>2</sup>

By petition filed November 30, 2001, the City late-filed a request for a NITU for a portion of the right-of-way between milepost 0.43 near the grade crossing at Pioneer Boulevard and milepost 5.11 near Colima Junction, a distance of approximately 4.68 miles.<sup>3</sup> The City states that, intermittently over the period of time since the effective date of the exemption, the City and UP have negotiated for transfer of the line, but the parties had a material disagreement regarding

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<sup>1</sup> This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company-Control and Merger-Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company (UP/SP). The common control authorized in UP/SP, Decision No. 44 (STB served Aug. 12, 1996), was consummated on September 11, 1996.

<sup>2</sup> The negotiating period under the NITU was extended by decisions served February 10, 1997, January 26, 1998, August 5, 1998, July 30, 1999 (affirmed by decision served August 4, 1999), January 26, 2000, and August 7, 2000.

<sup>3</sup> The August 12, 1996 decision also provided that requests for trail use/rail banking had to be filed by August 22, 1996. The decision stated, however, that the Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

the value of the line, and the City's environmental assessment took longer to commence and to complete than the City had planned. The City further states that the parties have reached an agreement and completed all steps necessary for the planned transfer of the line. The City submitted a statement indicating its willingness to assume full financial responsibility for the management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to possible future reconstruction and reactivation of the right-of-way for rail service. On December 5, 2001, UP advised the Board that it has not consummated the abandonment of the 4.68-mile portion of the line and that it is willing to negotiate with the City for interim trail use.

Trail use requests are accepted as long as the Board retains jurisdiction over the involved railroad right-of-way<sup>4</sup> and the carrier is willing to enter into negotiations. Inasmuch as UP has not consummated the abandonment and is willing to negotiate with the City for the right-of-way, a NITU will be issued for that portion, with the trail use negotiation period running for 180 days from the service date of this decision or until June 12, 2002. If the parties reach a mutually acceptable final agreement, no further Board action is necessary. If no agreement is reached within 180 days, UP may fully abandon the line, provided that the environmental conditions imposed in the August 12, 1996 decision are met. Use of the right-of-way for trail purposes is subject to restoration for railroad purposes. See 49 CFR 1152.29(d)(2).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice of exemption published in the Federal Register on August 12, 1996, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below, for the portion of the line extending between milepost 0.43 and milepost 5.11 until June 12, 2002, subject to the environmental conditions imposed in the August 12, 1996 decision.

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<sup>4</sup> See Rail Abandonments-Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Soo Line Railroad Company-Exemption-Abandonment in Waukesha County, WI, Docket No. AB-57 (Sub-No. 23X) (ICC served May 14, 1987); and Missouri-Kansas-Texas Railroad Company-Abandonment-In Pettis and Henry Counties, MO, Docket No. AB-102 (Sub-No. 16) (ICC served Apr. 26, 1991).

3. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for payment of any and all taxes that may be levied or assessed against, the right-of-way.

4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.

5. If interim trail use is implemented and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

6. If an agreement for interim trail use/rail banking is reached by June 12, 2002, interim trail use may be implemented. If no agreement is reached by that time, UP may fully abandon the line.

7. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary